

# Zimbabwe Law Review



Volume 11

1993 - 1994

# The Zimbabwe Law Review

## 1993 Volume 11

### Contents

<hr/>	
<b>Articles</b>	
The Problem Of Urban Squatting In African Countries — With A Special Focus On Nairobi (Kenya) And Harare (Zimbabwe)	Victor Nkiwane ..... 3
An Analysis Of A Grassroots Perspective On Violence Against Women In Zimbabwe In The Context Of The General Discourse On Violence	Amy Shupikai Tsanga ..... 19
A Theory Of Delict	Dennis T Mandudzo ..... 27
Land Expropriation Laws In Zimbabwe And Their Compatibility With International Legal Norms	Ben Hlatshwayo ..... 41
Externally Sourced Finance and its Impact on the Doctrine of the Sovereignty and Equality of State	Arthur Johnson Manase ..... 59
Education for Human Rights: Which Way Forward?	Marina d'Engelbronner-Kolff ..... 64
Demarcation of Centre-Local Fiscal Relations and Financial Viability of Rural Local Authorities (District Councils) in Zimbabwe	Ben Hlatshwayo ..... 79
Labour Laws in Zimbabwe: Legal Targets and Reality	Shepard Nzombe ..... 117
The Press and The Law of Defamation in Zimbabwe: Achieving a Better Balance?	Geoff Feltoe ..... 129
The Ghost of the Ultra Vires Doctrine in Zimbabwean Company Law	Artwell Gumbo ..... 137
On Civil Procedural Law and Liberal Legalism	BDD Radipati ..... 141
<hr/>	
<b>Case note</b>	
<i>Sprite KM (Pvt) Ltd v Tawurai</i> 1961 R & N 290 — A Critique	A Manase ..... 146
<hr/>	
<b>Book reviews</b>	
Law and development crisis	L Tshuma ..... 149
The Southern Rhodesian Question From An International Law Perspective	M d'Engelbronner-Kolff ..... 157
<hr/>	
<b>Materials</b>	
A Summary of Amendments to Zimbabwe's Constitution	..... 159
Accession by Zimbabwe to International Human Rights Instruments	..... 165
Basic Information on the Constitutional and Legal System of Zimbabwe	..... 166

# AN ANALYSIS OF A GRASSROOTS PERSPECTIVE ON VIOLENCE AGAINST WOMEN IN ZIMBABWE IN THE CONTEXT OF THE GENERAL DISCOURSE ON VIOLENCE

by

*Amy Shupikai Tsanga\**

## Introduction

In Africa where the majority of the population lives in the rural areas, legal literacy and legal aid are issues of concern as most people cannot afford lawyers and the latter, by and large, operate only in the cities. Taking the law to the people through the training of paralegals and legal literacy workers are some of the strategies which have evolved to try and deal with the situation.

In Zimbabwe, an organisation which has taken on the task of bridging the gap between the law and the people is the Legal Resources Foundation.<sup>1</sup> One of the most important projects undertaken by the Foundation is the Paralegal Scheme which has a legal literacy component in which emphasis is placed on educating people about their rights. Under the legal literacy scheme, community based men and women have received training on various aspects of the law and they in turn pass on the information to the community at large. To assist the legal literacy workers in imparting legal information, pamphlets on topical issues have been produced by the Centre with the assistance of interested lawyers in town who are deemed to have the expertise on particular issues. Some of the topics which have been covered in pamphlets include rape, accident damages, marriage and the law, the legal system of Zimbabwe, the Legal Age of Majority Act, and violence against women.

This article examines the topic of violence against women, drawing particularly on the reactions of people to the pamphlet on violence against women.<sup>2</sup> The pamphlet dealt with what is generally called domestic violence and was written by a lawyer and women's activist with victims of domestic violence as a specific target group. The pamphlet was however used to educate the community at large in line with the Foundation's policy of targeting both men and women. The responses to the pamphlet will be analysed in the context of the present discourse on violence against women, which cover its various aspects ranging from manifestations, effects, causes, responses of the legal system, the health, welfare and community sectors as well as strategies for better action.<sup>3</sup>

## Violence Against Women And The Question Of Cause

Dobash and Dobash<sup>4</sup> stress the view that violence is systematically and disproportionately directed against women. According to them, research relating to homicides indicates that the home is the location of an

---

\* Lecturer, Private Law Department, University of Zimbabwe.

1 Set up in 1984, the Legal Resources Foundation is a Charitable and Educational Trust operating in Zimbabwe through legal project centres in the cities of Bulawayo, Harare, and Masvingo and Gweru. My analysis is confined to the legal literacy scheme run by the Harare legal Projects Centre in Mashonaland East Province.

2 As a source of information I will draw on reports from the monitoring visits which I undertook to the various legal literacy workers in the period between January and September 1990 when I was an employee of the Harare Legal Projects Centre.

3 UN Report, *Violence Against Women In The Family* (1989).

4 Dobash R and Dobash R, *Violence Against Wives* (Open Books Publishing House, London, 1980).

extraordinary proportion of killings and women are the predominant victims. The UN Report<sup>5</sup> also echoes that women are susceptible victims and suffer acts ranging from punching, kicking, pinching, choking, spitting to psychological and mental violence which includes verbal abuse, harassment, excessive possessiveness and deprivation of physical and economic resources. The overall view of those who see violence as being overwhelmingly directed against women is that the terminology should reflect this context. Dobash and Dobash emphasise that neutral or equalitarian terms such as domestic violence or marital violence or spouse assault obscure the issue as they imply that each partner plays a part in the violence. They object to this obscurantist terminology as masking centuries of oppression of women. The UN Report on violence against women focuses on a considerable amount of literature on the issue and also points out the need for accurate terminology, meaning that the problem should be seen as that of violence directed at women. Neutral terminology, states the Report, hides the connection between battering and male supremacy.

However, there is literature which appears to favour the so called neutral terminology on the basis that both men and women are violent towards each other. Straus<sup>6</sup>, for instance, suggests that violence seems to be one of the few aspects of marriage which approach equality between the spouses. She acknowledges that the effects of the violence are far from equal "for even though she may cast the first coffee pot, he generally casts the last and most damaging blow".<sup>7</sup> From her research on 2143 American couples, she found an equal tendency to violence among men and women. Strathern<sup>8</sup>, with specific reference to Papua New Guinea, states how men may put talk on a par with physical violence. A wife's talk can be interpreted as aggressive so that even her kin might approve of her being beaten if the wife talks too much. Indeed, men's violence may be perceived as a reaction to an injury. Viewed within these contexts the issue arises whether domestic violence can simply be labelled violence against women.

In the context of the two arguments, one which emphasizes women as overall and systematic victims, and the other which lays partial blame at the woman's door, thus in a sense equalising the tendency, I would like to analyse the response to the pamphlet which was entitled "Violence Against Women Is Against The Law". The title of the pamphlet created a lot of discussion as well as vehement opposition particularly from the male audience in the legal literacy gatherings. As has been stressed, the project targets itself at both men and women. Even though in the rural areas it is the women who normally attend gatherings, men were always welcome to join. An interesting observation was how, even in situations where they were grossly outnumbered by women, men always exercised the right to be "predominantly heard". The objection to the title was on the grounds that it was biased in favour of women and yet women also commit violence. Their argument was that even though men assault physically, women commit even greater and more abominable assaults by using herbs and love potions. Others emphasised that women also initiate violence and that if your wife pokes you in the eye, you are not just going to stand and do nothing. Some thought that the title was so biased that they felt compelled to ask whether the law does not perceive women as committing any wrongs at all. Then there were those who felt that the reason why men appear to be the dominant wrongdoers is because it is very embarrassing for a man to go and report to outsiders that he has been beaten by his wife, for fear of being made the laughing stock. There were women who agreed that the pamphlet, particularly the title, was biased and did not portray the other side of the story. Some emphasized that their violence was defensive. Even on the use of love potions women said that the reason why they used these was because some men are cruel and need to be kept in place. On the accusation of tongue wagging, they again emphasized that the irresponsibility of some men causes women to talk. In gatherings where there were no men present, women were less likely to raise objections to the title of the pamphlet although mention was usually made

5 Note 3 *supra* at p 13.

6. Straus M, "Victims And Aggressors In Marital Violence" (1980) *American Behavioural Scientist* Vol. 23 No. 5 May/June pp 681-704.

7 *Ibid* a p 681.

8 Strathern M, "Domestic Violence In Papua New Guinea" (1985) *Law Reform Commission of Papua New Guinea Monograph* 3.

9 Note 6 *supra*.



that there are women who beat up men. Straus<sup>9</sup> examines why violence is not necessarily the strict prerogative of men. Victims tend to learn the role of the aggressor and the frequency with which women experience violence increases the probability of their reacting violently or initiating violence as well. She also lays the blame on explicit cultural norms which make the marriage license a "hitting license", meaning that a certain amount of violence is seen as normal between husband and wife. She also states that the child care role performed by women which involves a certain amount of physical discipline increases the likelihood of violence against their spouses, especially in reaction to behaviour which they do not like. Frustration in marriage resulting from the male dominated nature of marriage which in turn makes women relatively powerless in a central aspect of their lives is also put forward as an explanation for female violence against men in the marital relationship.

Judging from the responses it appears that semantics do matter although it must be stressed that this is more so from the male perspective. There is the issue of gender specific language not being welcome as well as the much deeper issue that women too are regarded as committing their own forms of violence which are either on a par with or of a deeper gravity than physical violence. For instance, the use of love potions may actually be deemed as a form of witchcraft, something which can lead to the break up of a marriage. Again, given the fact that women themselves stressed that if the pamphlet was to be of some use, then it had to be directed towards those who actually commit physical violence, the chances of making headway in convincing the wrong-doers are likely to be very slim especially where they view the title as antagonistic. In the opinion of the women, a pamphlet which focuses on telling them how to handle a particular problem without addressing those behind the problem, is unlikely to result in permanent changes. Possible strategies will be examined later in this paper.

Intertwined with the objections to entitling the pamphlet "violence against women" was the question of what causes violence. From the literature on the subject, it appears that there are two schools of thought on the issue of cause.<sup>10</sup> There are those who feel that the individual characteristics of the husband, the wife or external stresses that affect the family may have a lot to do with the violence. For instance, alcohol, use of drugs, infidelity, violence as learned behaviour, victim precipitation, stress and underdevelopment are all seen as contributing variously to marital violence. Then there are those who reject this focus on external causes and lay the blame squarely on the structure of society itself.<sup>11</sup> Violence is seen as an affirmation of a particular social order arising from the belief that women are less important and less valuable than men and as such do not deserve the same respect. The reason why women are beaten is to force them to submit to male superiority. The cause of violence then is the ideology of male superiority which is often reinforced through violence. Drawing on the experience in Papua New Guinea, Toft<sup>12</sup> analyses two cases where the women were treated violently by their husbands. She observes how in both cases the violence by the men did not mean that they wanted to end the union, but that they wished for total submission from the women. An increase in opposition from the women led to a corresponding increase in violence. Strathern<sup>13</sup> also reiterates that the underlying cause of violence is the belief that it is a man's right to control his wife.

Given these divergent schools on the causes of violence it is interesting to examine the inclinations of grassroots opinion on this all important question. Whenever a gathering was asked at the general level to mention causes of marital violence, individual and external factors were enumerated. Drama, for instance, is one of the methods used by the legal literacy workers to introduce legal topics in context. The situation popularly acted out to introduce the pamphlet on violence was one where a husband comes home drunk, finds his meal cold or at worst unprepared and then reacts violently to the situation. Violence was therefore attributed to drunkenness on the man's part, and to the failure to perform domestic duties on the part of the

10 UN Report *supra* at pp 25-31.

11 Dobash and Dobash *supra*; UN Report *supra*.

12 Toft S, "Marital Violence In Port Moresby" *Law Reform Commission of Papua New Guinea Monograph 3*.

13 Note 8 *supra*.

wife. A wife's request for money from her husband when he has spent it on the pleasures of this world was seen as a provocation. How the couples communicated, particularly the way the wife answered her husband, was seen as a cause of violence.

In short, it was felt that the main causes of marital violence included drunkenness, poverty, precipitation by the wife through failure to perform her role and also in answering back, and squandering of family resources on girlfriends. The causes pointed to both men and women and in a sense seemed to point towards individual traits. However, when the contents of the pamphlet were discussed and it became quite evident that men were being picked out as the major perpetrators of domestic violence, men in particular became cantankerous and sought to expand more fully the causes of marital violence. What is interesting is that an analysis of their responses shows that even though individual traits and external factors may manifest themselves in a marital violence situation the underlying cause is male power and control over females. One man put it thus:

Women should realise that what causes fighting in the home is the bossy and insubordinate attitude of some women. This is even against the Bible. The man is the head and the woman is the neck. Just as you cannot have two heads on one neck, you cannot have two heads in one house.

Other views expressed by the men on the causes of marital violence were that women abuse freedom to commit adultery and therefore any man who found his wife committing adultery was justified in beating her severely. At one gathering, the lawyer cited a real life example of a woman who had been treated like a chicken in that her hair had been plucked off in the course of a dispute. The aim was to show the extremities to which violence can go. The story did not rouse the sympathy of some men. They wanted to know **WHY** she had been beaten, for, they said, if the reason was adultery then she deserved it. These men saw themselves as having total control over women's sexuality to justify any brutal reaction where that control was challenged. There were those who felt that women should not have friends, as friends are of bad influence; those who insisted that it is important to remember that no-one is beaten for nothing; some who stated that women who have no manners invite beatings and those who saw the payment of "lobola" (bride-price) as giving them absolute authority over their wives. On the lobola issue it was felt by men that if women want equality then, they too, should pay lobola. Whichever way one looks at the men's statements, the underlying cause for resorting to violence is to emphasize the subordination of women. Women who do not conform to their subordinate status make themselves vulnerable to being put back to this position through violence.

Given the fact that women were generally predominant at these gatherings, it was interesting to observe that very few challenged the basis on which men justified violence. Some women agreed that women who try to make the man the "tortoise" of the house deserve to be beaten. One woman stated that it should be the duty of every woman to behave responsibly in marriage as women are the centre of the household. An un-submissive wife and one who commits adultery is certainly not acting responsibly. She also placed the duty to behave responsibly on men but saw the primary task as being that of the woman. However, there were women who emphasized that the payment of "lobola" does not give the man a license to beat his wife as "lobola" is not paid on that basis in the first place.

What can be gleaned from the responses is that men put particular emphasis on the lack of subordination on the part of the wife and that this contributed substantially to domestic violence. Any woman who does not conform with the male defined ideal of what a woman's place should be, makes herself vulnerable to justifiable assault. The women, on the other hand, did not totally reject these male views. There were instances where they acquiesced to the male views of subordination as evidenced in the way they constructed the dramas on violence against women. In mixed gatherings, there was a marked readiness to defer to the male viewpoint. This attitude fits in with Freeman's observation<sup>14</sup> that women are socialised into submissiveness. He agrees with Max Weber who noted that it is common to find in stratified societies those in subordinate positions

14 Freeman MDA, "Violence Against Women: Does The Legal System Provide Solutions Or Itself Constitute The Problem" (1980) *British Journal of Law and Society* pp 215-241.

believing in the legitimacy of the authority of those above them. Freeman adds that in most marriages there is no need to rely on might when control is enforced by deference. It is where there is no deference that violence is used to effect it.

Overall, therefore, even though individual related causes were mentioned in the gatherings, the underlying cause pointed towards women's failure to be submissive, to give the man the place he deems fit for himself. The view was that there should certainly be "tortoise" in the house, but forbid that the "tortoise" be the man.

### **Responses To Remedies Offered In The Pamphlet**

The pamphlet dealt with various solutions open to a woman who finds herself in marital violence situations. Legal and non-legal remedies were dealt with. The non-legal remedies included going to a safe place such as with family, friends or relatives, and seeking refuge with the police. The legal solutions presented included approaching the courts for a binding over order, making a criminal complaint, getting a judicial separation or divorce and asking for civil damages. The pamphlet also gave addresses of helping agencies giving emotional or legal support.

### **Responses To The Non-Legal Remedies**

Women generally saw it as a possible solution but one which would be difficult to exercise given the likely reaction of the men. This was particularly in response to the pamphlet's suggestion that the safe place could be a friend's place. The problem lies in that friends are generally regarded as a bad influence by men and also consulting friends is viewed as externalising the problem. There was also emphasis from the men that if a woman felt inclined to go away then preference should be given to his relatives so as to prevent mischievous escapades where relative's names are used as scapegoats. In her Papua New Guinean study, Toft<sup>15</sup> makes a similar observation about the reluctance of men to have problems externalised. When the women under study took action against male violence by reporting to relatives, the police, or the courts the men reacted even more violently. Instead of acknowledging that violence was not achieving the desired results, they continued in trying to beat the women into submission.

For women, the major problem with this solution was that sometimes families may not be that helpful as there is always a desire to hold the marriage together. They were of the view that family solutions are no longer as effective as they used to be and again, where the family is the man's family there was the fear of a biased outlook on the problem. Men, on the other hand, encouraged this avenue of problem solving, particularly since under customary law the aunt which the wife goes to with her domestic grievances is the husband's kin.

Very few women placed confidence in the police as being prepared to offer any assistance in a marital violence situation. Many said that the attitude of the police is to view marital violence as domestic. However, as the audience for the pamphlets was a rural one where amenities are more often than not a considerable distance away, there was the problem of distance to the police station. Rather insensitively, the pamphlet suggested telephoning the police and indeed went on to illustrate a woman telephoning the police about her problem. To suggest telephoning the police to a rural woman where the nearest telephone can be hundreds of kilometres away is indicative of a failure to appreciate the realities of the daily lives of those for whom information is targeted. It also raises the importance of suggesting viable solutions rather than taking Western environment-oriented solutions lock, stock, and barrel into the rural areas. Given the distance to the police station, transport problems and the unavailability of telephones, it is not surprising that this particular solution often invoked moments of humour from those targeted. They must have wondered at the seriousness of those writing the pamphlet in providing viable solutions.

---

15 Note 12 *supra*.

## Response To Legal Remedies

Accessing legal information to the rural population is a relatively new phenomena in Zimbabwe. Even now when efforts have been made to make information more accessible, it is not possible for one organisation to make an impact countrywide. On the whole, people are not conversant with the general law court structure. There is also the issue of inaccessibility of legal aid, because even though the Legal Resources Foundation has established Legal Advice Centres in some rural areas this is limited by available resources. Given this context it was not surprising that people had very little to say on their experiences with the courts as few used them at all. Distance to the courts is also another problem, since the courts are generally found at what might be called the business district of the area which for many dwellers could be a considerable distance away. Where financial resources are already limited one doubts that many women would be prepared to spend the little they have on transport, as opposed to spending it on their family. The legal solutions presented which entailed an understanding of the court system, or availability of resources to use this system, certainly did not speak to the experiences of rural people. At best, the pamphlet spoke to the urban bourgeois woman. Nonetheless, given the above limitations, there were useful comments on the legal solutions presented in the pamphlet.

The pamphlet concentrated on the woman getting a binding over order. This solution requires a technical knowledge of the law as an affidavit has to be drawn up. In the absence of legal aid, the women did not regard this option as a viable solution. Even though the pamphlet mentioned that the Clerk of Court might be of some assistance, in cases where the Clerk is often a man, women were not sure that they would get the requisite help, more so in rural areas where people know each other such that the likelihood of the man being known to the Clerk of Court would be great. Even where he is not known, the general feeling was that men tend to support each other. The practical difficulties of getting to the courts have already been mentioned as well as the fact that women are unlikely to spend scarce resources on going to report that a court order has been broken, when, in any event, it is likely to be broken again.

The pamphlet's suggestion that a criminal complaint might result in the arrest of the husband made it an unpalatable solution to most women. This was not out of sympathy for the batterer but because men are generally the breadwinners in the home and therefore to imprison the breadwinner would necessarily bring hardship on the family. The realities of daily life would thus prevent most women from exercising this option. There was also concern that if the man was imprisoned chances of having a normal relationship after such a "drastic" action would be very remote. It was therefore a step which many women thought would only be followed if one was no longer interested in sustaining the marriage.

In respect of my suggestion to seek judicial separation or divorce many women expressed concern for their children and continually expressed this as a factor influencing the decision not to end a marriage. They said that were it not for their children many women would opt for divorce. Even when told that the law no longer bases custody on whether bride-price has been paid or not, women felt that if men are denied custody they will retaliate by not paying maintenance, thus making bringing up the children by a woman on her own very difficult. Maintenance orders are notoriously difficult to enforce, hence women were very reluctant to place faith on the maintenance system. One can see that it is the realities of daily life which dictate or limit the solutions available to women as well as the ineffectiveness of legal remedies. Men, on the other hand, argued that the pamphlet was encouraging the dissolution of households by stating judicial separation and divorce as possible solutions. They argued that the laws presented in the pamphlet were like "Sodom and Gomorrah" and would destroy the nation. Another sore point was the statement in the pamphlet that in ordering a judicial separation, the court might allow the woman to stay in the family home. In the rural areas where marriage is virilocal, it is not surprising that this statement created problems. To suggest that a man might be ordered out of his home in preference for the woman who is considered an outsider was seen as unrealistic even on the basis that this would be in the interests of the children since customarily once bride-price has been paid the children belong to the husband. In the circumstances, it is unlikely that any court cognisant of the customary rules of residence would take such a step. No wonder that one man threatened to burn the house if the court ordered him to leave it.



The concept of compensation for harm done is not something alien to customary law and indeed both men and women could envision this happening. Suggesting the use of formal court structures seemed to put a different air to it. The remedy seemed somewhat inaccessible. Many stressed that it would be better if the remedy was pursued through customary family channels.

In summary, at the grassroots level, law was seen as a rather drastic resort which should only be chosen when all else had failed. However, what was interesting was that the reasons for viewing law in this light were different for men and women. In a country with legal dualism, one recurring query was why the general law solutions should take precedence over customary ones. Men tended to emphasize that problems should be solved internally rather than through the formal court system. If the couple failed to solve their problem internally then the next acceptable step in the eyes of men, would be to take the problem through the appropriate customary channels, such as informing an aunt, an uncle, or grandparents or some such other acceptable relative. In keeping with their view that it is insubordination which leads women to be beaten, men emphasized that solutions should be on counselling and telling women how to behave so as to avoid assault. They felt that if townspeople, meaning legislators and lawyers, felt a strong need to put an end to marital violence, then efforts should be devoted to producing palatable manuscripts which teach women to be humble, submissive and to talk nicely to their husbands. The solution was seen from the men's point of view as lying in behavioural change, an onus which they put squarely on the women's shoulders.

As has been mentioned, because of lack of access to the formal court system, and the fact that customary channels exist for solving the problem of marital violence, few responses focused on actual experience of having used the formal court system. However, given the heavy accent which the pamphlet placed on using legal solutions it becomes interesting to examine the experiences documented from elsewhere where women have pursued legal remedies and also whether the legal system does have the potential to solve violence against women. On this latter point, Freeman<sup>16</sup> emphasises that law cannot solve the problem of domestic violence as it (the law) provides institutional support for an ideology of patriarchy. In the family context, law defines the social order that women find themselves in. Focusing on Britain, he illustrates how the laws relating to national insurance, pensions, supplementary benefits, sickness and unemployment benefits, and family income supplement, are all based on stereotypical sex classifications which impute a dependent role on women. He questions whether any legal system imbued with notions of patriarchy can change face on the issue of domestic violence. If the law is to have meaning, then it is the ideology of subordination and control, embedded in the law which has to be challenged. In his view, the battle should not be that for battered women, but for freeing all women from patriarchal ideologies which support wife beating. As long as law is part of this ideology, women can expect little from it.

McCann<sup>17</sup>, in her study of court cases and women who have used the law, confirms Freeman's underlying assumptions about the law and patriarchal ideologies. Despite the existence of apparently progressive legislation in Britain on wifebeating, McCann observes how in practice the courts are influenced in their decisions by beliefs surrounding family and property. The analysis of court cases showed that the courts are only prepared to give a woman the matrimonial home in the best interests of the child or children. Outside this context, the chances of being granted the matrimonial home diminish greatly. It is the existing structures of property and motherhood which determine the rights of women. Rwezaura<sup>18</sup>, in a study focussing on family law reform in Tanzania, found that patriarchal ideologies work against making legislation meaningful for women. He gives the example of how the lower courts fail to emphasize the importance of post divorce settlements for women, particularly where the traditional position leaves the woman with little if any property at all.

16 Note 14 *supra* at p 24. See also Freeman MDA, "Legal Ideologies, Patriarchal Precedents And Domestic Violence" in *State, Law and Family* (Tavistock, 1984) pp 51-78.

17 McCann K, "Battered Women And The Law: The Limits Of Legislation" in *Women in Law*, Brophy J and Smart C (eds), (Routledge and Kegan Paul, 1985) pp 71-96.

18 Rwezaura B and Wanitzek U, "Family Law Reform In Tanzania: A Sociological Report" (1988) *International Journal Of Law And The Family* (2) pp 1-26.

If the courts do not treat women favourably in all other spheres of their lives because of the ideology of the subordination of women, it is certainly an exaggerated view to expect them to adopt a benevolent view when it comes to wife beating and enforcing legislation which destroys male hegemony. Therefore, even if the women in the rural areas were to try and use the law it is fair to assume that these are the hurdles that they would be confronted with in practice.

### Conclusion

Evidently, the continued existence of patriarchal ideologies makes the task of enlightening women about their rights an arduous one. Attitudes and socialisation can impede the struggle for women's legal literacy. It is not surprising that women in the legal literacy gatherings, were adamant that in reality, if the problem of violence is to be solved, then education should target the main perpetrators of violence, the men. They even encouraged the Legal Project Centre to hold the sessions on Sundays when men are most likely attend. Solutions to domestic violence have tended to lay emphasis on the steps that a woman can take to alleviate the problem. As has been shown, in African situations, Western oriented legal solutions are not always appropriate. Alternative approaches more suited to local conditions and incorporating positive aspects of traditional ways of handling the problem are called for. For instance, the referral agencies given at the end of the pamphlet were all to be found in the major cities. Legal organisations which take on the task of raising legal awareness among the underprivileged, particularly in the rural areas where the majority of the population lives, need to be sensitive to the realities of life of the audience they are targeting. An approach which lays undue emphasis on Western based solutions when traditional ones might be more appropriate, risks the chance of making a mockery of the whole effort. It is the context of reality rather than that of the lawyer which needs to take precedence. As long as women remain economically dependent on men for their survival, the chances of them taking advantage of solutions open to them remain minimal especially if taking such steps means upsetting the dependency relationship.

Then there is the question of presentation of issues and the necessity of producing a wide range of materials to cater for specific target groups. If, as the women rightly pointed out, education should ultimately target the men, adopting what the perpetrators see as an antagonistic attitude is not going to persuade them to change their behaviour. Indeed approaches which seem imbued with anger and blame attract resistance rather than change. Also the issue should not be looked at from the legal viewpoint alone. The issue of power struggles has to be squarely addressed especially where men are concerned. The harmful effects of domestic violence should be examined not only in the family but for society at large. Democratic practices often have their foundations in everyday surroundings. In the context of development, people need to be made to realise that a woman who suffers acts of violence is not going to be at her optimum as a member of a co-operative or club or whatever other activities she may engage in.

If we seriously intend that women should exercise their rights, then those whom they encounter while exercising their rights, such as the police and court officials, need to be trained to be sensitive to the experiences of women. Making use of the law sometimes favours economically independent women. Unfortunately there are few of these in the rural areas. Without economic equality it is very difficult for women to exercise their rights. A real challenge will continue to be the role that law can play in removing the obstacles that prevent law from positively affecting women's lives.



This work is licensed under a  
Creative Commons  
Attribution – NonCommercial - NoDerivs 3.0 License.

To view a copy of the license please see:  
<http://creativecommons.org/licenses/by-nc-nd/3.0/>

This is a download from the BLDS Digital Library on OpenDocs  
<http://opendocs.ids.ac.uk/opendocs/>